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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,395	09/27/2001	Hirofumi Nitta	000400-873	9045

7590 11/05/2003

Platon N. Mandros, Esquire  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, VA 22313-1404

EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/963,395

Applicant(s)

NITTA ET AL.

Examiner

Benjamin A Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-16, 18-19, 21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata et al. (US 4850655) in view of Dillard et al. (US 6095620).

Takata et al. disclose a hydraulic brake system including a hydraulic pressure generating device K1 for pressurizing brake fluid supplied from a reservoir 12 to apply a brake pressure to a wheel cylinder in response to operation of a brake operating member 3, an auxiliary hydraulic pressure source 11,13 having an accumulator 13 and a hydraulic pump 11, the hydraulic pump pressurizing the brake fluid supplied from the reservoir 102a for generating a power hydraulic pressure, the hydraulic pressure generating device including a master cylinder and a hydraulic booster assisting operation of the master cylinder by using the power hydraulic pressure generated by the auxiliary hydraulic pressure source.

Dillard et al. disclose an output hydraulic pressure detecting means for continuously detecting an output hydraulic pressure of an accumulator (col. 8 line 36) of a auxiliary hydraulic pressure source, vehicle condition detecting means (col. 2 line 30: speed sensor) for continuously detecting an operating condition of the vehicle, driving condition setting means (col. 2 line 29: control device) for setting a driving condition of the hydraulic pump based on the operating condition of the vehicle detected by the vehicle condition setting means and a driving control

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means (see col. 8 lines 35-60) for controlling the electric motor to drive the hydraulic pump based on the driving condition of the hydraulic pump set by the driving condition setting means and the output hydraulic pressure of the accumulator of the auxiliary hydraulic pressure source, the driving control means controlling a driving duty of the electric motor to set different driving duties of the electric motor which drive the hydraulic pump based on the driving condition of the hydraulic pump set by the driving condition setting means.

It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the feedback control of Dillard et al. in a device according to Takata et al. in order to reduce discernible noise to the vehicle operator (col. 2 line 15).

Re claim 16, see col. 2 line 30, a speed of zero is less than any predetermined speed threshold.

Re claims 18 and 23, see col. 8 line 36, the content of the accumulator is the pressure of the accumulator.

Re claims 19 and 24, see col. 2 line 30.

3. Claims 17, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata et al. (US 4850655) in view of Dillard et al. (US 6095620) and further in view of Martin et al. (US 6318817).

Martin et al. disclose using operation amount detecting means (stroke sensor), see col. 16 line 35, and deceleration detecting means (wheel sensor detecting wheel speed), see col. 16 lines 41-42 in the feedback control of a braking system. It would have been obvious to one of

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ordinary skill in the art to which the invention pertains at the time the invention was made to have included such controls in a device according to Takata et al. in view of Dillard et al. in order to increase pump life.

### ***Response to Arguments***

4. Applicant's arguments with respect to claim 15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP  
October 23, 2003

*BAP*  
10/27/03

*M. C. Graham*  
10/30/2003

MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310